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Via ECF

May 29, 2024

Honorable Rukhsanah L. Singh, U.S. Magistrate Judge
United States District Court- District of NJ
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street, Court Room 7W
Trenton, NJ 08608

Re: *In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation - MDL 2738*

Scott Dawson v. Johnson & Johnson, et al.
Docket No. 3:16-cv-08749

Patricia Clark v. Johnson & Johnson, et al.
Docket No. 3:17-cv-05696

Cynthia McDeavitt v. Johnson & Johnson, et al.
Docket No. 3:17-cv-07283

Dear Magistrate Judge Singh:

We write on behalf of the Johnson & Johnson Defendants in response to the letter filed by Burns Charest on May 22, 2024, (ECF 32250) concerning several cases of theirs listed on the May 1, 2024, Order to Show Cause (ECF 32128) in regard to Plaintiff Profile Form ("PPF") deficiencies.

Preliminarily, although the *Scott Dawson* matter, Docket No. 3:17-cv-08749, PPF was filed on the eve of Defendants' May 1st Order to Show Cause list, Defendants have already removed the *Dawson* matter from our deficiency list. This case will not be submitted on the final list of cases to be dismissed thirty-five (35) days after entry of the May 1st OTSC.

Regarding the two Burns Charest matters which remain deficient in serving PPFs, *Patricia Clark*, Docket No. 3:17-cv-05696, and *Cynthia McDeavitt*, Docket No. 3:17-cv-07283, these matters should be dismissed with prejudice pursuant to the procedure outlined in the February 13, 2024, Case Management Order (ECF 29032). That Order set forth a process which required dismissal of a case after being listed in a PPF Report to the Court and receiving a sixty (60) day extension to provide the PPF culminating in a with prejudice dismissal. Both *Clark* and *McDeavitt* were listed on the March 1, 2024, PPF Report (ECF 29168) and the April 1, 2024, PPF Report

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(ECF 30612). However, the Plaintiffs have continued to disregard the Order of the Court and have failed to provide a PPF.

There is no reason to deviate from this Order here. Both cases were required to serve PPFs on October 16, 2023, per the Amended Plaintiff Profile Form (ECF 27291). They didn't.

In their letter, Plaintiffs cite to non-binding New Jersey state court case law to try to support their argument that these two Plaintiffs should receive an additional sixty (60) day extension to provide the PPF or have their cases dismissed without prejudice. This state court law is irrelevant. The Court's Order is the definitive authority in this matter. There is no justification here to deviate from that Order or why their failure to abide by the requirements of this Court should result in anything less than dismissal with prejudice.

With respect to the *McDeavitt* matter, it would appear the reason counsel has not been able to contact their client and produce a PPF is due to the death of Ms. McDeavitt over three years ago. **Exhibit A**, obituary of Cynthia McDeavitt. The death of Ms. McDeavitt was ascertained from a relatively simple internet search.

To the extent the Ms. Clark surfaces down the road, she may look to FRCP 60(b) for relief. Should Ms. McDeavitt's family desire to prosecute any potential claims they may have, subject to any statutes of limitations or repose, they may do so separate and apart from the current *McDeavitt* matter.

Thank you for your consideration of these matters.

Respectfully,

/s/ Susan M. Sharko

Susan M. Sharko

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SMS/scg

cc: All Counsel of Record

EXHIBIT A



Official Obituary of
Cynthia Ann "Cindy" McDeavitt

June 13, 1953 - April 20, 2021

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[Obituary & Events](#)

[Tribute Wall](#)

Cynthia Ann "Cindy" McDeavitt Obituary

Cynthia Ann "Cindy" McDeavitt, age 67, of Farragut, Tennessee passed away on Tuesday, April 20, 2021 at her home surrounded by her family.

Cindy was born in Versailles, Missouri on June 13, 1953 to James F. Curtman and Doll Baby (Dolly) Whitten. She officially retired from Gables & Gates Realtors on January 1, 2021 after 10 years of service. Cindy was an active member of Random Acts of Flowers; various local quilting guilds; our local AMVETS; the Knoxville Humane Society; and our local area Habitat for Humanity.

In addition to her parents, she was preceded in death by her brother Steven Curtman.

Cindy is survived by her husband of 44 years, Dennis P McDeavitt, PE; her children Ryan McDeavitt of Knoxville; James McDeavitt and wife Dr. Patricia McDeavitt of Charleston, SC and daughter Katie (McDeavitt) Kouri and husband Dale Kouri of Knoxville; and her precious grandson Dylan Kouri; her brother Robert Curtman; and brother-in-law Randall McDeavitt of Albuquerque, NM.

[Share a memory](#)

[Plant a tree \(https://tree-cc.tributestore.com/?old\)](https://tree-cc.tributestore.com/?old)

A Celebration of Life for Cindy will be held at a later date this year yet to be determined.

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In lieu of flowers please feel free to make memorial donations for Ovarian Cancer in care of the American Cancer Society or any of the aforementioned charitable organizations important to Cindy.

To plant a beautiful memorial tree in memory of Cynthia , please visit our **Tree Store (https://tree-tc.tributestore.com/?old=20881959&tag=&source=tco_descriptionundefined&mtph=1)**.

Events

APR

24

Guestbook Signing & Memory Sharing



Ongoing

Family and friends are coming together online to create a special keepsake. Every memory left on the online obituary will be automatically included in this book.

[View Tribute Book](#)

Memorial Contributions

Knoxville Habitat For Humanity

1501 Washington Avenue, Knoxville, TN 37917
(865) 523-3539

Visit Website ([Http://www.knoxvillehabitatforhumanity.com](http://www.knoxvillehabitatforhumanity.com))

American Cancer Society [Share a memory](#)

American Cancer Society

Plant a tree (https://tree-tc.tributestore.com/?old=20881959&tag=&source=tco_descriptionundefined&mtph=1)

Visit Website ([Http://Www.Cancer.Org](http://www.cancer.org))

Random Acts Of Flowers - Knoxville

2936 Middlebrook Pike, Knoxville, TN 37921
(865) 633-9082

Visit Website ([Http://Www.Rafknoxville.Org](http://www.rafknoxville.org))

Share Obituary:



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&body=[https://www.clickfh.com/obituaries/Cynthia-](https://www.clickfh.com/obituaries/Cynthia-Ann-Cindy-McDeavitt?objd=20881959)

Ann-

Cindy-

McDeavitt?

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